

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:18-cv-00057-MR**

JAMES W. LOMICK,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
KEN BEAVER, et al.,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court *sua sponte*.

The Defendants filed a Motion for Summary Judgment on March 16, 2020. [Doc. 72]. The Court then entered an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), informing the Plaintiff of his obligation to respond, as well as the form such response must take. [Doc. 74]. Particularly, Plaintiff was informed that his forecast of evidence must be in the form of an affidavit under oath or a statement under penalty of perjury. [Id. at 2-3]. Plaintiff ultimately filed, more than a month late, a response consisting of 36 pages of his statement and argument, to which he attached many documents. Despite the admonitions on the Court's Roseboro Order, however, Plaintiff filed nothing under oath or under penalty of perjury. Curiously interspersed throughout Plaintiff's filing were copies of a form

signed by a notary, but not by Plaintiff, attesting that Plaintiff “Personally appeal [sic] befor [sic] this day 8th April 2020 and signal [sic] of this document.” [e.g. Doc. 81 at 19]. In short, the Plaintiff filed many pages, but NO forecast of evidence in accord with Rule 56.

Despite the lateness of Plaintiff’s filing and Plaintiff’s disregard for the Court’s instructions, the Court will in the interests of justice, provide the Plaintiff with the opportunity to verify what he has filed by certifying under oath or under penalty of perjury that his statements previously submitted are true of his personal knowledge (or identifying such portions thereof as to which he can so attest). The failure of the Plaintiff to do so within the time provided will result in the Court considering the Defendants’ Motion for Summary Judgment to be uncontested, which may result in the granting of said motion and dismissal of this action without further notice.

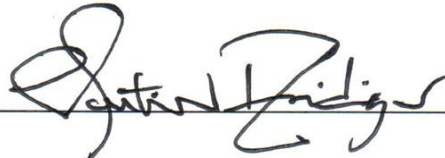
ORDER

The Plaintiff shall have thirty (30) days from this Order to respond in accordance with the terms of this Order, certifying under oath or penalty of perjury that his previously submitted statements are true of his personal knowledge (or identifying such portions thereof as to which he can so attest). Plaintiff’s failure to so respond within thirty (30) days may result in the

granting of Defendants' Motion for Summary Judgment and the dismissal of this action without further notice.

IT IS SO ORDERED.

Signed: September 9, 2020



Martin Reidinger
Chief United States District Judge

